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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/603,523	06/23/2000	Edward R. Howorka	P/3331-131	9886

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EXAMINER

KARMIS, STEFANOS

ART UNIT PAPER NUMBER

3624

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/603,523

Applicant(s)

HOWORKA ET AL.

Examiner

Stefano Karmis

Art Unit

3624

NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 may 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☒ Claim(s) 1-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 21.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This communication is in response to Applicant's response filed on 03 May 2004.

Status of Claims

2. Claim 1 has been amended. Claims 2-23 have been left as previously presented. Therefore claims 1-23 are under prosecution in this application.

Summary of this Office Action

3. Applicant's response filed on 03 May 2004 has been fully considered but is not deemed to be persuasive. Arguments are addressed in the next section below or within the context of the following rejection. Therefore the rejection, based on Togher et al. (hereinafter Togher) U.S. Patent 6,014,627, stands as cited in the previous office action, paper number 20, and Applicant's request for allowance is respectfully denied at this time.

Response to Arguments

4. Applicant's remarks with respect to the 35 U.S.C. 112, second paragraph rejecting as being indefinite because of the use of the term "and/or" is deemed to be persuasive. Therefore

the 35 U.S.C. 112 rejection as stated in the previous office action is withdrawn from consideration.

5. Applicant's invention provides a one to one correspondence with the arbitrator function and the market distributor function. Therefore each broker node carries out both the arbitrator function and the market distributor function. This brings together the arbitrations function of matching orders with the market distributors function of creating market views so that matching may occur closer to the trader and deal execution be performed more quickly.

Togher teaches that Arbitrators are in charge of identifying potential matches as well as other aspects of the "deal matching" process such as broadcasting price quotes, which provide a market view to other traders in other trading regions. Continuing, it is possible for a trader to communicate with a market access node, who communicates with an arbitrator, who then communicates with the market access node of another trader and then communicates to that other trader (Figure 1). This allows for a trader to communicate with a different trader without ever requiring the assistance of a market distributor. Togher further mentions that supplementing arbitrators and market distributors is not critical to the invention (column 5, lines 10-30). The Applicant's specification teaches market distributors that are said to provide dealable price information to the trader terminals while arbitrators are responsible for matching bids, offers and buy and sell commands (Page 2). However, Togher teaches that arbitrators not only perform matching, but also are responsible for broadcasting price quotes. Continuing with Togher the

information sent to market distributors is the same information sent to arbitrators, and therefore allows the arbitrator to provide a market view by broadcasting price quotes (Figure 5).

Claim Objections

6. Claims 1-23 are objected to because of the following informalities: The term broker node is not consistently capitalized throughout the claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-23 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Togher et al. (hereinafter Togher) U.S. Patent 6,014,627.

Regarding independent claims 1 and 7, Togher discloses a computer trading system for trading fungible instruments comprising; a communication network for distributing electronic messages; a plurality of order input devices connected to the communications network each for generating electronic order messages; and a plurality of Broker nodes connected to the communications network, each Broker node arranged to perform a brokering function including matching orders and providing market views to trader terminals, each Broker node comprising: a store of orders available for trading in the system; means for deriving a market view from the store of orders; means for providing a market view from the store of orders; means for providing the market view to at least one of the plurality of trader terminals; and a matching facility for matching compatible orders submitted by the plurality of order input devices (column 4, line 65 thru column 5, line 50, column 16, lines 1-49 and Figure 1 and Figure 5).

Claims 2 and 3, the store of orders holds orders submitted to the trading system from order input devices via other Broker nodes (column 5, 47-49).

Claim 4, the matching facility in each Broker node comprises means for analyzing the store of orders to select one order matching another order (column 6, lines 14-20).

Claim 5, each order input device is associated with one Broker node, and the means for providing a market view comprises means for sending price information to each trader terminal derived only from orders in the store of orders provided by other order input devices with which each said trader terminal can deal (column 5, lines 31-49 and Figure 1).

Claim 6, each Broker node further comprises means for notifying other Broker nodes of the existence of compatible orders (column 13, lines 24-25).

Claim 8, each Broker node comprises means for generating a message notifying other Broker nodes in the network of the existence of an order submitted by the Broker node (column 12, lines 28-30).

Claim 9, each Broker node comprises means for storing an identifier, which identifies the Broker node from which a message notifying the existence of each order was received (column 6, lines 1-11).

Claim 10, the means for providing the market view to at least one of the plurality of trader terminals comprises means for deriving dealable prices from the orders in the store of orders (column 5, 47-49).

Claim 11, the dealable prices are determined from a subset of orders corresponding to traders with which credit is available on a bilateral facility (column 2, lines 23-32).

Claim 12, the store of orders available for trading is modified at each Broker node in accordance with matches performed by the matching facility (column 12, lines 19-27).

Claims 13 and 19, Togher discloses a computer trading system for trading assets between traders, comprising; a communications network; a plurality of order input terminals coupled to the communications network, each order input terminal effective to communicate with a respective order messages including quotes and hits; and a plurality of broker nodes coupled to the order input terminals and forming at least part of the communications network; wherein: each broker node is effective to analyze at least some of the electronic order messages, to produce a market view based on the electronic order messages and to match a quote with a corresponding hit (column 4, line 65 thru column 5, line 50, column 16, lines 1-49 and Figure 1 and Figure 5).

Claim 14, each trader has a line of credit with every other trader; and a particular broker node produces a particular market view for a particular trader based on the lines of credit between the particular trader and the other traders (column 1, lines 28-41).

Claim 15, the communication network is arranged in a clique tree configuration (figure 1).

Claim 16, the broker node further stores the quotes until a corresponding hit is received (column 6, lines 14-20 and column 13, lines 34-40).

Claim 17, each broker node is aware of all orders in the communication network (column 13, lines 23-25).

Claim 18, each broker node produces the market view based on the trader receiving the market view (column 8, line 38-40).

Claims 20, Togher discloses a method for matching a quote from a first trader with a hit from a second trader in a computer trading system using a broker node, the computer trading system including a plurality of order input terminals coupled to a communications network, the communications network including a plurality of broker nodes, each order input terminal effective to communicate with a respective trader and to generate electronic order messages in response thereto, the electronic order messages including quotes and hits, the method comprising: receiving electronic order messages at the broker node; analyzing at least some of the electronic order messages at the broker node; producing a market view for a particular trader, at the broker node, the market view being based on the electronic order messages; receiving a hit based on the market view at the broker node; and matching a quote with the hit at the broker node (column 4, line 65 thru column 5, line 50, column 16, lines 1-49 and Figure 1 and Figure 5).

Claim 21, the first trader has a line of credit with the second trader; the second trader has a line of credit with the first trader; and the market view is further based on the first and second lines of credit (column 1, lines 34-41).

Claim 22, the broker node further stores the quotes until a corresponding hit is received (column 6, lines 14-20 and column 13, lines 34-40).

Claim 23, Togher discloses a trading system, comprising; a plurality of trader terminals which allow traders to: place bids and/or offers into the system; view information concerning bids and/or offers placed into the system by other trader terminals, which bids and/or offers have been prescreened for credit; and accept bids/or offers from other trader terminals; a plurality of broker nodes located at positions which are remote from one another, each trader terminal being associated with a respective one of the broker nodes, each broker node; receiving bids and/or offers from its associated trader terminal or terminals; distributing bids and/or offers received from its associated trader terminal or terminals to at least one other broker node; receiving bids and/or offers originating from trader terminals other than its associated trader terminals from at least one other broker node; creating a market view for each of its associated trader terminal or terminals based upon bids and/or offers placed into the system by other trader terminals, which bids and/or offers have been prescreened for credit (column 4, line 65 thru column 5, line 50, column 16, lines 1-49 and Figure 1 and Figure 5).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (703) 305-8130. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully Submitted
Stefano Karmis
20 July 2004



HANI M. KAZIMI
PRIMARY EXAMINER